

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 828

House Bill No. 752

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. Tennessee Code Annotated, Section 56-26-102, is amended by deleting the section in its entirety and by substituting instead the following:

(a) No policy of accident and sickness insurance shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, or application which becomes a part of any such policy be used in connection therewith until a copy of the form and of the premium rates and of the classifications of risk pertaining thereto has been filed with the commissioner of commerce and insurance, and unless the commissioner finds that the benefits provided in such policy are reasonable in relation to the premium charged, based upon such reasonable regulations as the commissioner may promulgate; provided, however, in the case of experience-rated group insurance, premium rates and classifications of risks need not be filed but shall be maintained by the insurance company and made available for review by the commissioner upon his request; nor shall any such policy, endorsement, rider or application be so used until the expiration of thirty (30) days after the form has been filed, unless the commissioner shall sooner give the commissioner's written approval. The commissioner shall notify, in writing, the insurer which has filed any such form if it does not comply with the provisions of this chapter, specifying the reasons for the commissioner's opinion. After such notice, it is unlawful for such insurer to issue such form in this state. In such notice, the commissioner shall

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state that a hearing shall be granted within twenty (20) days upon written request of the insurer.

(b) At the time of filing new premium rates on any previously approved form, the benefits provided by the policy are deemed to be reasonable in relation to the premium charged so long as the insurer complies with the terms of the loss ratio guarantee accompanying the filing. The loss ratio guarantee shall be in writing and shall include at least the following:

(1) A recitation of the anticipated annual loss ratio standards included in the original actuarial memorandum filed with the policy form at the time of the initial approval of the policy form.

(2) A guarantee that the actual loss ratios in this state for the experience period in which the rates take effect, and for each experience period thereafter, will meet or exceed the anticipated annual loss ratio standards as recited in accordance with subsection (b)(1) of this section. If the annual earned premium volume in this state under a policy form is less than one million dollars (\$1,000,000), the loss ratio guarantee shall be based on the actual nationwide loss ratio for the policy form. If the annual earned premium volume nationwide is less than one million dollars (\$1,000,000), the experience period shall be extended until the end of the calendar year in which one million dollars (\$1,000,000) of earned premiums is attained.

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(3) A guarantee that the actual loss ratio results for each calendar year the rates are in effect shall be independently audited during the second quarter of the following year at the expense of the insurer. The audited results shall be reported to the commissioner no later than the date for filing the applicable accident and health policy experience exhibit.

(4) A guarantee that affected policyholders in this state shall be issued a proportional refund of premiums paid in the amount necessary to bring the actual loss ratio up to the anticipated annual loss ratio standards as recited in accordance with subsection (b)(1) of this section. If national loss ratios are used, the total amount refunded in this state shall equal the dollar amount necessary to achieve the loss ratio standards, multiplied by the total premium earned in this state on the policy form and divided by the total premiums earned in all states on the policy form. The refund shall be made to all policyholders insured under the applicable policy form as of the last day of the experience period at issue and whose individual refund would equal ten dollars (\$10.00) or more. The refund shall include interest at the rate of five and one-half percent (5 1/2%) per year calculated from the last day of the experience period at issue until the date of payment, and shall be paid no later than ninety (90) days after the audit results are reported to the commissioner.

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(5) A guarantee that refunds of less than ten dollars (\$10.00) shall be aggregated by the insurer and paid to the department of commerce and insurance.

(6) No review may be filed of any order or decision of the commissioner pursuant to § 56-26-105 unless the refund required in subdivision (4) has been paid.

(c) As used in this section, the term "loss ratio" means the ratio of incurred claims to earned premium by number of years of policy duration, for all combined durations.

(d) As used in this section, the term "incurred claims" means claims actually paid during the reporting period, plus reported claims in the process of settlement. Incurred claims shall not include legal expenses, claims adjustment costs and other administrative expenses associated with claims paid.

(e) In order for an insurer to submit a loss ratio guarantee as provided in this subsection, an insurer shall:

(1) Make a deposit of five hundred thousand dollars (\$500,000) in cash, securities issued by an institution approved by the commissioner, or a combination thereof, which shall serve as security for payment of the premium refunds set forth hereinabove, provided any interest thereon shall accrue to the sole benefit of the insurer; or

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(2) Hold and maintain an A.M. Best rating of at least "A" or a rating determined by the commissioner to be equivalent, issued by an independent insurance company rating organization; or

(3) Request and receive the express written consent of the commissioner to submit loss ratio guarantees.

(f) The commissioner, after a public hearing of which at least thirty (30) days' written notice has been given, may withdraw approval of rates previously deemed approved pursuant to the loss ratio guarantee provisions of this section if the commissioner determines that the insurer is no longer complying with the terms of the loss ratio guarantee.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.